

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ROSA ADAME.

Plaintiff,

CASE NO. 09cv2302-WQH-WVG

ORDER

COUNTRYWIDE HOME LOANS, INC.,
DBA AMERICA'S WHOLESALE
LENDER; RECONTRUST COMPANY,
N.A., A SUBSIDIARY OF BANK OF
AMERICA; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., AS A NOMINEE
LENDER, and DOES 1 through 50,
inclusive.

Defendants.

HAYES, Judge:

The matter before the Court is the Motion to Dismiss the First Amended Complaint, filed on December 11, 2009 by Defendants Countrywide Home Loans, Inc., dba America's Wholesale Lender, and ReconTrust Company, N.A., A Subsidiary of Bank of America ("moving Defendants") (Doc. # 10).

I. Background

On December 1, 2009, Plaintiff filed a First Amended Complaint. (Doc. # 8).

On December 11, 2009, the moving Defendants filed the Motion to Dismiss, seeking the dismissal of all claims against the moving Defendants in the First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. # 10).

Plaintiff has not filed an opposition to the Motion to Dismiss.

II. Discussion

A district court may properly grant an unopposed motion to dismiss pursuant to a local

rule where the local rule permits, but does not require, the granting of a motion for failure to respond. *See Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995). Civil Local Rule 7.1 provides: “If an opposing party fails to file the papers in the manner required by Civil Local Rule 7.1.e.2, that failure may constitute a consent to the granting of a motion or other request for ruling by the court.” S.D. Cal. Civ. Local Rule 7.1(f)(3)(a). “Although there is ... a [public] policy favoring disposition on the merits, it is the responsibility of the moving party to move towards that disposition at a reasonable pace, and to refrain from dilatory and evasive tactics.” *In re Eisen*, 31 F.3d 1447, 1454 (9th Cir. 1994) (affirming grant of motion to dismiss for failure to prosecute); *see also Steel v. City of San Diego*, No. 09cv1743, 2009 WL 3715257, at *1 (S.D. Cal., Nov. 5, 2009) (dismissing action pursuant to Local Rule 7.1 for plaintiff’s failure to respond to a motion to dismiss).

The docket reflects that Plaintiff, who is represented by counsel, was served with the Motion to Dismiss. The Motion to Dismiss and the Court’s docket reflect that the hearing for the Motion to Dismiss was noticed for January 19, 2010. Civil Local Rule 7.1 provides: “each party opposing a motion ... must file that opposition ... with the clerk ... not later than fourteen (14) calendar days prior to the noticed hearing.” S.D. Cal. Civ. Local Rule 7.1(e)(2). As of the date of this Order, Plaintiff has failed to file an opposition. The Court concludes that “the public’s interest in expeditious resolution of litigation,” “the court’s need to manage its docket,” and “the risk of prejudice to the defendants” weigh in favor of granting the Motion to Dismiss for failure to file an opposition. *Ghazali*, 46 F.3d at 53.

III. Conclusion

IT IS HEREBY ORDERED that the Motion to Dismiss is **GRANTED**. (Doc. # 10). The Complaint is **DISMISSED** without prejudice as to Defendants Countrywide Home Loans, Inc., dba America’s Wholesale Lender, and ReconTrust Company, N.A., A Subsidiary of Bank of America.

DATED: January 26, 2010


WILLIAM Q. HAYES
United States District Judge